

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Revision of the Commission's Rules)	
To Ensure Compatibility with)	CC Docket No. 94-102
Enhanced 911 Emergency Calling Systems)	RM-8143

To: The Federal Communications Commission

Reply Comments of The Texas 9-1-1 Agencies

The Texas 9-1-1 Agencies file their reply to the initial comments filed pursuant to the Further Notice of Proposed Rulemaking¹ addressing whether noninitialized service (NIS) phones used to make 9-1-1 calls should provide for call back by Public Safety Answering Points (PSAPs). The Texas 9-1-1 Agencies would respectfully show:

Preliminary Statement

That a problem with “the innumerable non-initialized phones in the public’s hands”²—which “number increases daily, distributed by a variety of commercial and charitable organizations”³—exists is indisputable.⁴ As anticipated, wireless service providers (WSPs)

¹ Further Notice of Proposed Rulemaking, CC Docket No. 94-102, RM-8143 (May 25, 2001).

² Comments of the Rural Cellular Association (RCA) at 1.

³ *Id.*

⁴ The Cellular Telecommunications and Internet Association (CTIA) argues that a Commission regulation addressing this issue “may be highly capricious if that problem does not exist.” Comments of CTIA at 8. The Texas 9-1-1 Agencies urge that RCA’s comment regarding the increasing numbers of NIS phones, as well as those of other commenters, refute this argument. *See, e.g.,* Comments of Cingular Wireless LLC (Cingular) at 2 (The Commission “should refrain from imposing regulatory obligations that may discourage participation in donation programs.”)

claim “no cost effective method to provide call back capabilities”⁵ is available and “public education programs regarding the limitations of all types of non-initialized handsets are the best and most technically feasible method for addressing this problem.”⁶

Education certainly is an important part of the solution to the dilemma, but it is the *status quo* that is not working. Frantic 9-1-1 callers with NIS phones, clearly indicating life-threatening situations, do not remember that they first must identify themselves as NIS callers and provide location information. Too late, the PSAPs find out they were dealing with NIS phone callers.

With their request, the Texas 9-1-1 Agencies strike a reasonable balance to remedy, to a degree, the problems PSAPs face when they receive 9-1-1 calls that have no call-back capability: require a means to identify incoming 9-1-1 calls as NIS with digits, such as 123-456-789 (NIS digits), that do not resemble a valid call-back number. PSAPs, thus, know immediately that the first information they must obtain is the caller’s location.

NIS digits also will alert the PSAP that there is no subscriber information available from the WSP, should the call be disconnected. If an emergency call is disconnected, and has not been identified as originating from an NIS phone, the PSAP most likely will try to contact the 9-1-1 caller. By dialing the call back number that is displayed as ANI, the PSAP will either reach the subscriber who now legitimately has possession of the callback number that displayed

and Comments of AT&T Wireless Services Inc. (AWS) at 4 (“The Commission should not take any action, such as imposing even a limited initialization requirement, that would discourage voluntary carrier participation in handset donation programs.”). Growing donation programs that are non-industry sponsored (assuming *arguendo*, all industry donation programs carry limited air time) and, thus, may have no call back capability, the Texas 9-1-1 Agencies assert, will result in greater numbers of NIS phones. See also Comments of the Independent Cellular Services Association and MT Communications at 3 (“[T]his will increasingly become a major problem as the quantity of those phones rises and the public realizes that E911 can be called without a monthly fee.”).

⁵ Comments of RCA at 1.

⁶ Comments of AT&T Wireless Services, Inc. (AWS), at 1.

as ANI, or if the number has not been reissued, they will hear a recording. In many instances the PSAP will contact the carrier whose network carried the 9-1-1 call to request a trace and/or subscriber information due to exigent circumstances. The time and resources necessary to research just one call on a wireless carrier's network is substantial. The inability to recognize an incoming 9-1-1 call as NIS will continue to provide for the increase in the number of exigent circumstance requests to WSP's security departments, wasting valuable time and resources only to conclude that no subscriber information is available, because there is no subscriber.

If the Federal Communications Commission (Commission) cannot implement this minimum requirement, "the Texas 9-1-1 Agencies, with a heavy heart, request the FCC to reconsider and eliminate the Commission's requirement that wireless carriers must forward 9-1-1 calls from NIS handsets."⁷

Discussion

I. NIS Digits Do Not Exacerbate Scarce Numbering Resources Nor Divert Resources Needed for Phase I and Phase II Emergency 911 Service

The Texas 9-1-1 Agencies' proposal does not compound the scarce numbering resources⁸ that would result from requiring NIS phones to have call back capability. Nor will the proposal divert resources that WSPs assert are focused on implementation of Phase I and Phase II Emergency 9-1-1 (E911) service.⁹

The NIS digits fix, according to AWS, is a software solution. While AWS "takes no position on the merits of [the NIS digits] proposal,"¹⁰ AWS updates the information it provided originally

⁷ Initial Comments of the Texas 9-1-1 Agencies (July 9, 2001) at 6-7.

⁸ See Comments of AWS at 2, Comments of Cingular at 6, Sprint PCS (Sprint) Comments at 9.

⁹ Comments of AWS at 3.

¹⁰ Comments of AWS at 5.

about the likely inclusion in the Phase II E-911 standard (J-SDT-036) of a capability for notifying a PSAP that a call is coming from a non-initialized phone. This feature was incorporated as an option in the Phase II E-911 standard by TR45.2AHES under the name “MobileCallStatus,” which would allow for implementation of this feature in Phase II E-911 *software*. However, AWS has learned from its infrastructure vendors that initial vendors of Phase II compliant software will not include this feature and AWS and other carriers therefore will not be able to support this function as AWS had expected.¹¹

As a software solution, the fix appears applicable, moreover, to existing and newly manufactured mobile phones. The Texas 9-1-1 Agencies urge that, in the public interest, the Commission mandate, as soon as practicable, the functionality this software would provide as a solution that will facilitate PSAPs’ processing of NIS 9-1-1 calls.

II. NIS Digits Avoid Other “Problems” Raised by WSPs

The NIS digits solution resolves also some of the myriad other problems that WSPs raise:

- The expense for the “development of a callback feature [that] would be costly and entail significant development time”¹² is avoided;
- Donation programs, both with valid call back numbers¹³ and without¹⁴ will be unaffected by the NIS digits solution;
- Wireless carriers would “not be required to shoulder the financial burden”¹⁵ of providing air time for NIS phones;¹⁶
- The price of 911-only phones will not increase,¹⁷ as 911-only phones transmit digits that identify the call as NIS;

¹¹ Id. (citation omitted and emphasis added).

¹² Id. at 8, quoting Lucent Technologies.

¹³ Id. at 6.

¹⁴ Comments of Cingular at 7.

¹⁵ Comments of RCA at 1-2.

¹⁶ See also Comments of CTIA at 11; Comments of the North American GSM Alliance LLC at 6.

¹⁷ Sprint PCS Comments at iii; Comments of Secure Alert, Inc., at 1.

- The absence of labels from handsets, if any are required and were removed over time,¹⁸ would not affect the PSAPs' abilities to recognize the 9-1-1 callers as using NIS phones;
- Fraud and criminal exploitation will not occur;¹⁹ and
- "Cloning" of the electronic serial number (ESN) of an NIS phone given to a family member is unnecessary and does not require changing current law.²⁰

Conclusion

Ideally, the solution to the problem posed by 9-1-1 callers using NIS phones is call back capability, but Texas PSAPs need a solution to the problem that is achievable in the very near future. Requiring that all phones making 9-1-1 calls transmit digits such as 123-456-789 to PSAPs is a reasonable and workable solution.

If the Commission cannot implement this minimum requirement, the Texas 9-1-1 Agencies request the FCC to reconsider and eliminate the Commission's requirement that wireless carriers must forward 9-1-1 calls from NIS handsets.

Respectfully submitted,

Rupaco T. González, Jr.
State Bar No. 08131690

Patricia Ana Garcia Escobedo
State Bar No. 12544900

Attorneys for the Texas 911 Agencies

¹⁸ Comments of CTIA at 11-12.

¹⁹ Comments of the North American GSM Alliance LLC at 4; Comments of AWS at 6-7; Comments of Cingular at 4.

²⁰ Comments of Cingular at 8.

The González Law Firm
One Westlake Plaza
1705 South Capitol of Texas Highway
Austin, Texas 78746
(512) 330-9696
(512) 330-9898 (FAX)
pacolaw@msn.com

Certificate of Service

I certify that a copy of these comments is being served on August 8, 2001, by regular or overnight mail or fax on the required parties.

Patricia Ana Garcia Escobedo

c:\my documents\pat\fc c\94-102\nis\replycomments.doc